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TAB

15 August 1955

MEMORANDUM FOR: Mr. Houston

SUBJECT: Construction of CIA Building

25X1

1. At the request of Colonel White, [redacted] met with Mr. Joseph Moody, Assistant General Counsel, Public Buildings Service, General Services Administration, and [redacted] of his office, to sound them out on what they believed to be the statutory basis for their claim to exclusive authority for the construction of the CIA building. 25X1

2. GSA's legal arguments were general and based on the philosophy that "everybody knows and it has been traditional practice that we are the building construction arm of the Federal Government". They cited, as basic legal authority, the Act of 25 May 1926, 40 USCA 341 and 342. The germane provisions of these sections are quoted in attachment A. Basically, these sections authorize the Administrator of General Services to acquire sites for the construction of Federal buildings and to supervise the construction of such buildings, including the preparation of designs and the awarding of contracts. There is nothing in the language of these sections indicating that the authority granted the Administrator is exclusive. The Administrator's authority under this Act is as successor to the Federal Works Administrator.

3. The organic Act (1949) establishing the General Services Administration, as amended, (40 USCA, Section 490(c)) gives the Administrator authority comparable to that cited above, whenever requested by any Federal agency to acquire a site or construct a building. The legislative history of this section indicates that the practice for a number of preceding years was to accompany appropriations for building construction with language authorizing the transfer of the appropriated funds to GSA. This section embodies the recurrent appropriation language in permanent statutory form. In summary, section 341 (1926) authorizes the Administrator to expend appropriations made to GSA for building; section 490 (1949) authorizes him to receive funds from other agencies which have been appropriated to them for building purposes.

4. Section 490(c) is contained in Chapter 10 of Title 40. 40 USCA 474, provides that "Nothing in . . . Chapter 10 (and certain other chapters not germane to this issue) shall impair or affect any authority of . . . the Central Intelligence Agency." The applicable legislative history (1950 U. S. Code Cong. 1504) states:

"To the extent that compliance with the Act and submission to the jurisdiction of the Administrator will not so 'impair or affect the authority' of the several agencies to which the subsection applies as to interfere with the operation of their programs, the Act will govern. Any disputes that arise can be settled by the President under the authority to prescribe policies and directives vested in him by (40 USCA 486)."

5. Under this authority, the President directed a letter to all executive agencies, after the passage of the Act, stating:

"The attention of these (exempted) agencies is called specifically to the purposes of this legislation and they shall insofar as practicable, procure, utilize and dispose of property in accordance with the provisions of the Act, and the regulations issued thereunder, in order that the greatest overall efficiency and economy may be effected."

6. We asked the GSA representatives what they considered to be the effect of the above exclusion. Their answer was that they did not consider that GSA's letting the contract and supervising the construction would "impair or affect" CIA's authority. Their basic argument was one of practicality. They stated that it was customary to work closely with the head of the agency concerned in constructing a building. Although they admitted that since GSA's creation, there had been no construction projects of this magnitude undertaken by them, they felt that because of their competent technical staff, a building acceptable to the Director could be constructed. We asked what would happen if the Director and the Commissioner of PBS (if he were the contracting officer) were unable to agree on some specification. The answer was that in such a case the Commissioner, as the contracting officer, would have the final say. This was consistent with a reiterated theme that a project of this magnitude could only be undertaken with "one boss".

7. No mention was made of those provisions of section 10(a) of PL 110 which authorize CIA to acquire sites and to construct and operate buildings.

8. Turning to the legislative history of Title IV of PL 161, the GSA representatives stated that in light of discussions held between GSA and CIA prior to and during the course of, the Congressional hearings, statements before the Committee by Mr. Dulles and Colonel White indicated a clear intent to let GSA handle the technical aspects of constructing the building. The statements referred to are found on page 548 of the hearings on S 1765, and read as follows:

Senator Clegg. I notice you had consulted the Public Buildings Service in working up your plans. Would they be expected to supervise the construction?

Mr. White. We had expected to work with the Public Buildings Service in this, sir. We had prepared all our

plans with them and plan to select an architect with them and work with them jointly in letting our bids although the language of the appropriation is intended to appropriate the funds to us.

Senator Case. The language does. It places the authorization in you. Has any consideration been given in placing the actual construction with the Public Buildings Service or the Corps of Engineers?

Mr. Dulles. We had not expected to place it with the Corps of Engineers, sir. We had expected to do it in conjunction with the Public Buildings Service. We plan to work it with them and not with the Corps of Engineers.

Senator Case. Have you been building any buildings?

Mr. Dulles. No, sir; we have not.

Senator Case. Do you have a division, an architectural division, or an engineering division?

Mr. Dulles. We have a small construction division.

Senator Case. Do you have an engineering organization that would be adequate to take on something of this magnitude?

Mr. Dulles. No, sir; we do not. We would have to and expect to lean on the Public Buildings Service for that assistance.

Senator Case. In the Public Works Committee in discussing a highway program or any other program, one of the first things we run into is this question: Are engineers available? Can you get technical staff to supervise or to lay out this construction program? I think it might be desirable for the committee to consider that problem.

You might give it some thought and give us a mature recommendation on that. I would hesitate to see the committee take action that would have the Central Intelligence Agency set up a large construction agency.

Mr. Dulles. We would not do that. We would not want to.

Mr. White. We have no thought of that at all.

Senator Case. I am not entirely enamored of putting all Government construction in one agency, but I think that where an agency has only 1 or 2 construction projects that it is much better for them to have it handled through a central construction agency.

If you have an agency like the Department of Defense with a great deal of construction in each of its subdepartments, I think you can argue that Army or Navy or Air Force might have a construction agency because they are large enough to have enough going on at all times to maintain a considerable staff with experienced and competent people.

But if they were agencies which only once in a lifetime or once in 50 years had a major construction project, it seems to me better to have that serviced by a central construction agency.

9. In the hearings before the House, the only statement which would seem to support GSA's position is found on page 176:

Mr. Deane. All of these figures you have submitted to us have been developed by the General Services Administration? Where did you get the figures and the cost items?

Mr. White. We have worked with the General Services Administration and the bureau of the Budget on this, sir.

10. CIA's position is bolstered by other statements in the hearings before the House, on page 180. There it is stated:

Mr. Mahon. And you are going to assure us now that you personally, if the building is constructed, will see to it that we have a practical type construction that leans toward utilitarian aspects rather than toward decorative aspects?

Mr. Dulles. I will assure you of that. I have no interest in the decorative side, except that it be dignified.

Mr. Scrivner. Let me follow that one step further. We have had some discussion before some of our committees on what I consider absolutely unrealistic requirements placed upon some governmental agencies by civilian defense. Are they going to tell you what kind of a building you have to build, and whether you have to make it B-bomb-proof and so on; or are you going to draw your own designs?

Mr. Dulles. I will be responsible for that, Mr. Scrivner.

This language indicates that the Director was at this time announcing his intention to assume personal responsibility for all aspects of the construction.

11. The GSA representatives dwelt heavily on what they understood to be the mutual understanding between CIA and GSA on the issue of who was to be primarily responsible for the construction. They indicated that when Title IV of PL 161 came to their attention, they had misgivings

regarding the language "The Director of Central Intelligence is authorized to provide for a headquarters installation . . ." They said that at this time Commissioner F. A. Strobel called Colonel White to reaffirm GSA's previous understanding that they would construct the building. Mr. Moody stated that Colonel White offered reassurance in this point and that consequently, they did not take exception to the language, as they would have if the understanding had been otherwise.

12. As matters of incidental interest, these points were raised:

(a) When the District Court building in the District of Columbia was authorized, Congress expressly designated the senior judge to serve as final arbiter.

(b) GSA has a feeling that its own Spartan standards will not be observed by agencies supervising their own construction. They cited as an example difficulties they had with the Comptroller General, when the GAO building was constructed, concerning the appointments of his private offices.

(c) At the close of the discussion, Mr. Fritz, who said that he had been sitting with Commissioner Strobel when Colonel White called today, said that he thought GSA would take the position that if the Director of Central Intelligence, despite GSA's objections, proceeded with the construction of the building on the assumption he had authority to do so, that GSA would be inclined to withdraw completely, even to the extent of supplying technical guidance.

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